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FILED

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JOHN F. DAVIS, CLERK

IN THE
Supreme Court of the United States

October Term, 1961
No. 13 Original

STATE OF TEXAS,

Plaintiff

v.

STATE OF NEW JERSEY ET AL.,

Defendants

**ANSWER OF COMMONWEALTH OF
PENNSYLVANIA TO COMPLAINT
OF STATE OF TEXAS**

DAVID STAHL ✓

*Attorney General of the
Commonwealth of Pennsylv-
ania*

JACK M. COHEN

*Deputy Attorney General of
the Commonwealth of Penn-
sylvania*

State Capitol
Harrisburg, Pennsylvania

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ANSWER OF COMMONWEALTH OF
PENNSYLVANIA TO COMPLAINT
OF STATE OF TEXAS

The Commonwealth of Pennsylvania, by David Stahl, Attorney General, makes answer to the Complaint of the State of Texas, as follows:

I. Admitted.

II. Admitted. (On call for proof.)

III. Admitted.

IV. The Commonwealth of Pennsylvania acts herein by and through David Stahl, Attorney General, as requested by Charles M. Dougherty, Secretary of Revenue, in accordance with the provisions of the statutes of Pennsylvania.

V. Admitted.

VI. Admitted that the plaintiff has mailed a copy of the Complaint to the Governor and Attorney General of the Commonwealth of Pennsylvania, as to the remainder of plaintiff's allegations contained in this paragraph, Commonwealth of Pennsylvania has no knowledge and demands proof thereof if pertinent to the case.

VII. Admitted that the Sun Oil Company has filed with the Treasurer of Texas a written report of personal property which is held by the company and deemed by it to be subject to escheat in Texas under the statutes of Texas.

Admitted that the Texas statute defines the term "subject to escheat" as stated in paragraph VII of the Complaint, and also defines "personal property" as stated in the said paragraph.

Admitted that the Treasurer of Texas has received and holds the aforesaid report.

The defendant has no knowledge as to the averments of paragraph VII of the Complaint relating to the said property.

The defendant has no knowledge except as set forth in the Complaint, that the said property is being claimed by the Treasurer of the State of Texas and the Attorney General of Texas as property subject to escheat exclusively to Texas under the laws as having been reported by the holder thereof as abandoned personal property held within the State of Texas or held without the State of Texas for a person whose last known address is in Texas. Proof of such averments, if relevant, is demanded.

For further answer, the defendant's answer to paragraph XI of the Complaint is herein incorporated by reference.

VIII. Admitted.

IX. The defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph IV of the Complaint. Proof of such averments is demanded.

X. Denied as averred. The defendant, Commonwealth of Pennsylvania, has not notified the Sun Oil Company that Pennsylvania is claiming property

reported by Sun Oil Company to the Treasurer of Texas. The Commonwealth of Pennsylvania, by telegraphic communication to the Attorney General of State of Texas has requested that the Commonwealth of Pennsylvania be given access to the company's books and records for the purpose of determining those items claimed by the State of Texas which it would deem escheatable to the Commonwealth of Pennsylvania.

The Commonwealth of Pennsylvania; while it has not asserted a claim in escheat to any specific property held or owing by the Company, nonetheless avers that since the defendant Sun Oil Company has its principal office in the Commonwealth of Pennsylvania, the said Commonwealth by virtue thereof will assert claim to either all or a part of the identical sums presently claimed by the plaintiff, State of Texas.

To-date, the defendant Sun Oil Company has failed to permit the Commonwealth of Pennsylvania to audit its books and records, and pending institution and completion of such an audit, the Commonwealth of Pennsylvania makes claim in this present suit to all of the same funds claimed by its sister states.

XI. The defendant is without knowledge or information sufficient to form a belief as to the truth of the averment that the property which Sun Oil Company has reported to the Treasurer of Texas is approximately \$37,853.53. Proof of such averment is demanded.

The defendant is without knowledge or information sufficient to form a belief as to the averment that the debts listed under (1), (2), (3), (4) and (5) arose out of the operations of the Sun Oil Company in Texas

through its operations in Texas. Proof of this averment is demanded. The defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of Sun Oil Company records of these individual debts were originally made and entered into, and have since been kept in the company's division offices in Texas. The averments contained in sub-paragraphs one to five hereof are denied and proof thereof is demanded at the trial of this case.

The averment that the debts listed under (6), (7), (8), and (9) are believed to have arisen in Texas is vague and uncertain. The defendant is without knowledge or information sufficient to form a belief as to the place where such debts arose, and the averments are therefore denied. Defendant, Commonwealth of Pennsylvania, demands proof thereof at the trial of this case.

The averment that the situs of the aforesaid property is in Texas and subject to the jurisdiction of Texas is a statement of an opinion or conclusion of law. The defendant is without knowledge or information sufficient to form a belief as to the situs of such debts, and the averments pertaining thereto are denied. The defendant, Commonwealth of Pennsylvania, demands proof thereof at the trial of this case.

XII. Admitted. Except that the Commonwealth of Pennsylvania has no knowledge or information sufficient to form a belief as to the truth of the statement that defendant, Sun Oil Company, has been engaged in business in Texas, throughout the time the subject debts arose. All means of proof thereof are in the exclusive control of the plaintiff and hence these aver-

ments are denied. Proof thereof is demanded at the trial of this case.

XIII. Denied. The averments of paragraph thirteen of plaintiff's complaint contain conclusions of law to which no answer is required but to the extent that they are relevant and material, the Commonwealth of Pennsylvania demands proof thereof at the trial of this case.

XIV. Denied for the reasons set forth in Paragraph XIII.

XV. Denied for the reasons set forth in Paragraph XIII.

XVI. Denied for the reasons set forth in Paragraph XIII.

XVII. Admitted. The Commonwealth of Pennsylvania is also entitled to the same opportunity. It is also entitled to the opportunity, in accordance with law, to make such inquiry of the Sun Oil Company, and to make such demands for the books and records of Sun Oil Company as will enable the Commonwealth to decide whether any property held is subject to the escheat or custody statutes of the Commonwealth and therefore to institute such proceedings, whether in the court, or in any other court having jurisdiction under the laws of the Commonwealth or the United States, for a judgment awarding the escheat or custody of the said property to the Commonwealth.

XVIII. Admitted. Except that the Commonwealth of Pennsylvania is also entitled to the same opportunity. The Commonwealth is also entitled to the opportunity under its laws to make such claims and to make

such examination of the books and records of the Sun Oil Company as will enable the Commonwealth to determine the exact claim, if any, it shall assert before this Honorable Court.

XIX. Wherefore, the Commonwealth of Pennsylvania prays as follows:

(1) The Commonwealth of Pennsylvania joins in the plaintiff's first prayer.

(2) The Commonwealth of Pennsylvania joins in the plaintiff's second prayer.

(3) The prayer for a temporary injunction should not be applied to the Commonwealth's right to obtain discovery or knowledge of the nature, amount, and situs and last known rightful owners of the money or property made the subject of the present case, thereby enabling the Commonwealth of Pennsylvania to make adequate answer to plaintiff's complaint and thus assist the Commonwealth in asserting any valid claim it may in the premises.

(4) The Commonwealth joins in the plaintiff's fourth prayer.

(5) That upon the final adjudication of the suit, the temporary injunction, if any, be dissolved, there being no basis for the assumption by the plaintiff that the Commonwealth will fail to abide by the determination of the merits of the case by your Honorable Court.

(6) That a decree be entered recognizing the Commonwealth of Pennsylvania's right to escheat or take into its custody all or any part of the funds or other property in question.

(7) That a decree be entered recognizing the Commonwealth of Pennsylvania's right to escheat or take into custody all or any part of the funds or other property in question.

(8) That all the parties to the within proceedings be given such other and further relief as the Court may deem proper under the circumstances.

DAVID STAHL

Attorney General of the Commonwealth of Pennsylvania

JACK M. COHEN

*Deputy Attorney General,
Commonwealth of Pennsylvania*